

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

CARLOS ABREU,

Petitioner,

-against-

9:11-CV-0839 (LEK/CFH)

JOHN LEMPKE, Superintendent,

Respondent.

ORDER

This matter comes before the Court following a Report-Recommendation filed on January 23, 2013, by the Honorable Christian F. Hummel, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c). Dkt. No. 26 (“Report-Recommendation”).

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” FED. R. CIV. P. 72(b); see also L.R. 72.1(c). “If no objections are filed . . . reviewing courts should review a report and recommendation for clear error.” Edwards v. Fischer, 414 F. Supp. 2d 342, 346-47 (S.D.N.Y. 2006); see also Cephas v. Nash, 328 F.3d 98, 107 (2d Cir. 2003) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.”); Farid v. Bouey, 554 F. Supp. 2d 301, 306 (N.D.N.Y. 2008).

The Court has granted Petitioner three substantial extensions of the time period for filing objections to the Report-Recommendation. See Text Order dated March 28, 2013; Dkt. Nos. 30;

32.¹ Petitioner has still not filed any objections. After a thorough review of the Report-Recommendation and the record, the Court has determined that the Report-Recommendation is not subject to attack for clear error or manifest injustice.

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 26) is **APPROVED** and **ADOPTED in its entirety**; and it is further

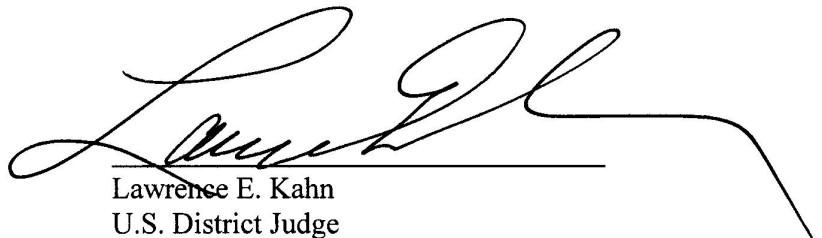
ORDERED, that the Amended Petition (Dkt. No. 8) for a writ of habeas corpus is **DENIED** and **DISMISSED**; and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on the parties in accordance with the Local Rules; and it is further

ORDERED, that no certificate of appealability shall be issued in this case because Petitioner has failed to make a “substantial showing of the denial of a constitutional right” pursuant to 28 U.S.C. § 2253(c)(2).²

IT IS SO ORDERED.

Dated: July 10, 2013
Albany, New York


Lawrence E. Kahn
U.S. District Judge

¹ The most recent Order granting Petitioner an extension informed him that “no further extensions will be granted by the Court.” Dkt. No. 32.

² See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003) (“[Section] 2253 permits the issuance of a [certificate of appealability] only where a petitioner has made a ‘substantial showing of the denial of a constitutional right.’” (citation omitted)).